

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DePuy Mitek, Inc.)
a Massachusetts Corporation)
)
Plaintiff,)
)
v.)
)
	Civil No. 04-12457 PBS
)
Arthrex, Inc.)
a Delaware Corporation and)
)
Pearsalls Ltd.)
a Private Limited Company)
of the United Kingdom)
)
Defendants.)
)

Plaintiff DePuy Mitek's Motion In Limine (No. 1)
To Exclude Evidence Regarding CETR Testing

Plaintiff, DePuy Mitek, Inc. (“Mitek”) moves *in limine* to exclude evidence regarding testing carried out by CETR on behalf of the Defendants, Arthrex, Inc. and Pearsalls, Ltd. (collectively “Arthrex”) which Defendants would like to admit in support of their non-infringement position. Testimony by Dr. Mukherjee, Arthrex’s expert, should be excluded because his testimony fails the FED. R. EVID. 702 reliability standard and should be precluded.

Furthermore, the CETR tests should be excluded pursuant to FED. R. EVID 403 because Arthrex will have no witness to explain the data and therefore any potential relevance of the data is greatly outweighed by confusion of the jury and potential for unfair prejudice.

In sum, Defendants should be precluded from admitting evidence or argument relating to the CETR pliability, knot slippage-strength, knot tie-down, friction, tissue drag, and chatter tests.

Dated: July 13, 2007

DEPUY MITEK, INC.,
By its attorneys,

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